

FILED

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**Board of Vocational Nursing
and Psychiatric Technicians**

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10 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. VN-2006-841

14 JACQUELIN M. VAERINI
aka JACQUELIN MORROW
15 14042 Brenan Way
Santa Ana, CA 92705

ACCUSATION

16 Vocational Nurse License No. VN 142936

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

- 21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
23 Nursing and Psychiatric Technicians, Department of Consumer Affairs.
- 24 2. On or about January 19, 1989, the Board of Vocational Nursing and
25 Psychiatric Technicians ("Board") issued vocational nurse license number VN 142936 to
26 Jacquelin M. Vaerini, aka Jacquelin Morrow ("Respondent"). The license was in full force and
27 effect at all times relevant to the charges brought herein and will expire on October 31, 2008,
28 unless renewed.

STATUTORY PROVISIONS

3. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Section 2878 of the Code states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct...

....

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

....

5. Section 2878.5 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code.

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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1 (c) Be convicted of a criminal offense involving possession
2 of any narcotic or dangerous drug, or the prescription,
3 consumption, or self-administration of any of the substances
described in subdivisions (a) and (b) of this section, in which event
the record of the conviction is conclusive evidence thereof.

4 6. Section 490 of the Code provides, in pertinent part, that the Board may
5 suspend or revoke a license when it finds that the licensee has been convicted of a crime
6 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

7 7. Section 492 of the Code provides, in pertinent part, that successful
8 completion of any diversion program under the Penal Code, or successful completion of an
9 alcohol and drug problem assessment program, shall not prohibit any agency from taking
10 disciplinary action against a licensee or from denying a license for professional misconduct,
11 notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an
12 arrest.

13 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
14 request the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 9. California Code of Regulations, title 16, section 2521 provides,
18 in pertinent part:

19 For the purposes of denial, suspension, or revocation of a license pursuant
20 to Division 1.5 (commencing with section 475) of the Business and Professions
21 Code, a crime or act shall be considered to be substantially related to the
22 qualifications, functions or duties of a licensed vocational nurse if to a
23 substantial degree it evidences present or potential unfitness of a licensed
24 vocational nurse to perform the functions authorized by his license in a
25 manner consistent with the public health, safety, or welfare. Such crimes
26 shall include but not be limited to those involving the following:

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28 (c) Violating or attempting to violate, directly or indirectly,
or assisting in or abetting the violation of, or conspiring to violate
any provision or term of Chapter 6.5, Division 2 of the Business and
Professions Code.

... .

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1 (f) Any crime or act involving the sale, gift, administration,
2 or furnishing of "narcotics or dangerous drugs or dangerous devices" as
defined in Section 4022 of the Business and Professions Code.

3 10. California Code of Regulations, title 16, section 2522.5, states:

4 (a) When considering the suspension or revocation of a license
5 on the ground that a licensed vocational nurse has been convicted of a crime,
the Board, in evaluating the rehabilitation of such person and his eligibility
6 for a license will consider the following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or
offense(s).

10 (4) Whether the licensee has complied with any terms of parole,
11 probation, restitution, or any other sanctions lawfully imposed against the
licensee.

12 (5) If applicable, evidence of expungement proceedings pursuant to
Section 1203.4 of the Penal Code.

13 (6) Evidence, if any, of rehabilitation submitted by the licensee.

14

15 11. "DRUGS"

16 "Methamphetamine" is a Schedule II controlled substance as designated by Health
17 and Safety Code section 11055(d)(2).

18 FIRST CAUSE FOR DISCIPLINE

19 (Conviction of a Crime Substantially Related)
20 (December 2006 - Possession of a Controlled Substance - Methamphetamine)
(December 2006 - Under the Influence of a Controlled Substance - Methamphetamine)

21 12. Respondent is subject to disciplinary action under Code sections 490,
22 2878(f), and California Code of Regulations, title 16, section 25219(c) and (f) in that on
23 December 18, 2006, in a criminal case entitled *People v. Jacquelin Marie Vaerini*, in the
24 Superior Court of California, County of Orange, Harbor Justice Center, Case No. 02HF0296,
25 Respondent was convicted by the Court on her plea of guilty of violating Health and Safety
26 Code sections 11377 (Possession of a Controlled Substance - Methamphetamine), a felony, and
27 11550(a) (Under the Influence of a Controlled Substance - Methamphetamine), a misdemeanor.
28 The circumstances are as follows:

1 a. On February 5, 2002, Costa Mesa Police Officers observed Respondent's
2 vehicle parked in a parking lot behind a business. There were no other vehicles in the parking
3 lot. Officers approached Respondent's car and observed Respondent sitting in the driver's seat,
4 slumped forward in a sleeping or unconscious position. Officers tried to open the vehicle and
5 found it locked. Respondent did not initially acknowledge the officers's presence. Officers then
6 observed Respondent holding a glass narcotic pipe. Officers recognized the glass pipe
7 Respondent was holding in her hand as a narcotic pipe used primarily for smoking
8 methamphetamine.

9 Officers reached through a cracked window to attempt to unlock Respondent's
10 vehicle door. Respondent then suddenly woke up and looked toward officers. Respondent
11 appeared very lethargic and not completely conscious. Respondent then unlocked the vehicle
12 door and handed the pipe to officers when asked to do so. Officers found additional controlled
13 substances in Respondent's purse, along with drug paraphernalia.

14 b. As a result of the above conviction, Respondent plead guilty and on
15 April 2, 2002, the Court ordered deferred entry of judgment pursuant to Penal Code section 1000.
16 Respondent failed to comply with the Court's order on a number of occasions, as follows:
17 On May 2, 2002, a failure to comply warrant issued for Respondent's arrest and the Penal Code
18 section 1000 program terminated. On October 18, 2002, the Penal Code section 1000 program
19 was reinstated and Respondent was ordered to re-enroll in a drug program. On November 25,
20 2002, a failure to comply warrant was issued for Respondent's arrest and the Penal Code 1000
21 program was terminated. On January 13, 2003, Respondent's Penal Code 1000 program was
22 ordered terminated. On May 8, 2003, the Penal Code 1000 program was reinstated and
23 Respondent was ordered to re-enroll in a drug program. On October 8, 2003, the Penal Code
24 section 1000 was ordered terminated and a failure to comply warrant was issued for
25 Respondent's arrest. On January 20, 2004, the Court sentenced Respondent to 3 years formal
26 probation, ordered Respondent to pay fines in the amount of \$250, submit to search and seizure,
27 and attend AA meetings.

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1 On September 5, 2006, Respondent's probation was revoked. On December 18,
2 2006, Respondent appeared before the Court and admitted to violating probation and was
3 sentenced.

4 SECOND CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct)
6 (Possession of a Controlled Substance - Methamphetamine)

7 13. Respondent is subject to disciplinary action under Code section 2878(a) on
8 the grounds of unprofessional conduct as defined in section 2878.5(a) of the Code in that on or
9 about February 2, 2002, she possessed Methamphetamine. On this date, Costa Mesa Police
10 Officers found Respondent sitting in the driver's seat of her vehicle slumped forward in a
11 sleeping or unconscious position. Officers found Methamphetamine and drug paraphernalia in
12 Respondent's car and purse. Officers later determined Respondent was under the influence of
13 Methamphetamine. This is more fully described in paragraph 12, above, and incorporated herein
14 by reference.

15 THIRD CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct)
17 (Self-administer a Controlled Substance - Methamphetamine)

18 14. Respondent is subject to disciplinary action under Code section 2878(a) on
19 the grounds of unprofessional conduct as defined in section 2878.5(b) of the Code in that on or
20 about February 2, 2002, Respondent, while licensed as a vocational nurse, was found to be under
21 the influence of Methamphetamine, a controlled substance, as designated by Health and Safety
22 Code section 11055(d)(2), as is more fully described in paragraph 12, above, and incorporated
23 herein by reference.

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